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Re: Appl. No. 09/954,764, filed September 18, 2001

Number of Pages: (including cover page) 26

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REQUEST  
For  
**CONTINUED EXAMINATION (RCE)  
TRANSMITTAL**

Address to:  
**MAIL STOP RCE  
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ALEXANDRIA, VA 22313-1450**

(Revised 09/2003)

Application Number 09/954,764

Filing Date: September 18, 2001

First Named Inventor: de Boer

Art Unit: 1644

Examiner Name: Phillip Gambel

Confirmation No.: 8879

Attorney Docket No. 925.302

This is a request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application.

1. Submission required under 37 C.F.R. § 1.114

- a.  Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
  - i.  Consider the arguments in the Appeal Brief or Reply Brief previously filed on
  - ii.  Other
- b.  Enclosed
  - i.  Amendment/Reply
  - ii.  Affidavits(s)/Declarations(s):
    - (a) Copy of 132 Declaration by inventor Mark de Boer, as filed in priority document U.S. Application No. 08/070,158, now U.S. Patent No. 5,677,165 (3 pages)
    - (b) Copy of Declaration by Paul B. Savereide regarding biological deposits and accompanying contracts with ATCC outlining terms of agreement for maintenance and public availability of biological deposits, as filed in priority document U.S. Application No. 08/070,158, now U.S. Patent No. 5,677,165 (4 pages)
  - iii.  Information Disclosure Statement (IDS)

RTA01/2159540v1

PAGE 2/25 \* RCVD AT 7/29/2004 5:24:59 PM [Eastern Daylight Time] \* SVR:USPTO-EFXRF-1/6 \* DNI:8729306 \* CSID:9198622260 \* DURATION (mm:ss):10:44

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PATENT

Attorney's Docket No. 925.302

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: de Boer Confirmation No.: 8879  
Appl. No.: 09/954,764 Group No.: 1644  
Filed: September 18, 2001 Examiner: Phillip Gambel  
For: METHOD FOR TREATING AN IgE-MEDIATED DISEASE IN A PATIENT  
USING ANTI-CD40 MONOCLONAL ANTIBODIES

July 29, 2004

MAIL STOP RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

COMMUNICATION

Applicants file concurrently herewith a Request for Continued Examination of the above-referenced application under 37 C.F.R. §1.114. Applicants have received notice of an April 20, 2004 Communication from the European Patent Office regarding third party observations that were lodged in a European patent application that is related to the above-identified application. The observations are based on a prior art reference, de Boer *et al.* (1992) *Journal of Immunological Methods* 152:15-23.

The de Boer *et al.* (1992) reference was timely cited by Applicants in the above-identified application as item C9 on the PTO Form 1449 accompanying the Information Disclosure Statement filed March 19, 2002. The Examiner has already considered this reference, as evidenced by the initialed copy of this PTO Form 1449 included with the Office Action mailed September 30, 2003.

This RCE is submitted in order to have these third party observations made officially of record in this application for the sake of full disclosure. The Examiner is respectfully requested to consider these third party observations in light of the other documents submitted concurrently herewith. These documents include the following: (1) a copy of the 132 Declaration by inventor

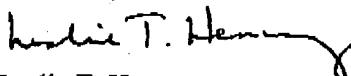
RTA01/2159541v1

In re: de Boer  
Appl. No.: 09/954,764  
Filed: September 18, 2001  
Page 2

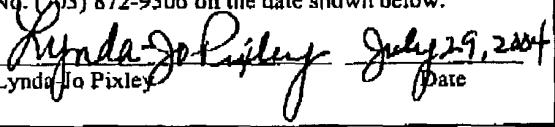
Mark de Boer that was filed in priority document U.S. Application No. 08/070,158, now U.S. Patent No. 5,677,165, in response to the Examiner's rejection of the claims in that priority document in view of this same de Boer *et al.* (1992) reference; and (2) a copy of the Declaration by Paul B. Savereide regarding biological deposits and the accompanying contracts with ATCC outlining terms of agreement for maintenance and public availability of biological deposits, which were also filed in priority document U.S. Application No. 08/070,158. Although the entire contents of the priority document were incorporated herein by reference, Applicants submit paper copies of these two documents so that the physical contents of the above-identified application are complete when the Examiner considers these third party observations.

It is not believed that extensions of time or fees are required beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Leslie T. Henry  
Registration No. 45,714

<p>Customer No. 00826 <b>ALSTON &amp; BIRD LLP</b> Bank of America Plaza 101 South Tryon Street, Suite 4000 Charlotte, NC 28280-4000 Tel Raleigh Office (919) 862-2200 Fax Raleigh Office (919) 862-2260</p>	<p><b>CERTIFICATION OF FACSIMILE TRANSMISSION</b> I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office at Fax No. (703) 872-9306 on the date shown below.  Lynda Jo Pixley      July 29, 2004 Date</p>
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